

Minutes  
Virginia Outdoors Foundation  
Meeting of the Board of Trustees  
September 23, 2004  
Department of Forestry  
Charlottesville, Virginia

Trustees present: Mr. Frank Kilgore, Chairman, Mr. J. William Abel-Smith, Dr. M. Rupert Cutler, Mr. Frank Hartz, Ms. Katherine Imhoff, Mr. Jeffrey Walker and Mr. Charles Seilheimer.

VOF Staff Present: Tamara Vance, Executive Director, Ruth Babylon, Sherry Buttrick, Anna Chisholm, Faye Cooper, Kristin Ford, Leslie Grayson, AC Logan, Jeff Matthews, John Scully, Estie Thomas, Laura Thurman, Leslie Trew and Bill Wasserman. Also in attendance were Mr. Rex Linville and Ms. Sarah Gannon from the Piedmont Environmental Council, Ms. Carrie Hagan from the James River Association, Mr. Brock Herzberg from the Farm Bureau, Ms. Terri Cofer Beirne, Ms. Phyllis Rubenstein, Mr. Dennis Baker from Matthews County and Mr. McCandish Holton.

Dr. Cutler made a motion to end the closed session of the Ex. Dir. Selection Committee meeting which was convened on August 18<sup>th</sup>, 2004 and continued on August 31<sup>st</sup>. Mr. Seilheimer seconded the motion and it was approved unanimously. Mr. Seilheimer made a motion to certify the closed meeting,

“ Whereas, the Board of Trustees of the Virginia Outdoors Foundation (“the Board”) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act: and

Whereas, 2.2-3712 of the Code of Virginia requires a certification by the Board in an open meeting that such closed meeting was conducted in conformity with Virginia law:

Now, therefore, be it resolved that the Board hereby certifies, to the best of each member’s knowledge, the following:

- 1) Only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and
- 2) Only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

Dr. Cutler seconded the motion and it was approved unanimously by the Ex. Dir. Selection Committee members, including Mr. Kilgore, Dr. Cutler and Mr. Charles Seilheimer. Mr. Kilgore reported that Ms. Imhoff had removed herself from the Selection Committee and left the August 18<sup>th</sup> meeting because of personal connection to one of the applicants.

Mr. Kilgore introduced the two recently appointed Trustees, Mr. Jeffrey K. Walker from Northampton County and Mr. Frank (Hank) M. Hartz, III from Goochland County.

Mr. Kilgore asked for any changes to the Order of Business as shown on the agenda and the following changes were made; #4 was moved to non-consent, #'s 41, 44, 46, 57, 59, 60, 61, 62, 73, 74 and 75 were moved to the consent agenda, #28 was confirmed on the consent agenda, #'s 63, 65, 78 and 82 were withdrawn and # 83 was added as a request to amend an existing easement. Mr. Seilheimer made a motion to approve the Order of Business for the meeting as modified above. The motion was seconded by Dr. Cutler and approved unanimously.

Dr. Cutler made a motion to approve the minutes of the previous meeting, July 20<sup>th</sup>. Ms. Imhoff requested that an instruction concerning consent vs. non-consent proposals be included in the minutes. The instruction was that a proposal which contains provisions more restrictive than the standard VOF Guidelines for density and building numbers (for example: an easement which permits no dwellings) could be included on the consent agenda. Mr. Seilheimer seconded the motion including the above modification and it was approved unanimously.

### **Executive Director's Report**

Ms. Vance updated the Trustees on several subjects including the Callendar Farm lawsuit in Clarke County, a proposal to transfer ownership of the Aldie Mill to Loudoun County, and the Chesterfield Riverfront easement proposal. At a recent hearing, VOF was released from a lawsuit involving Clarke County and Callander Farm LLC. At a recent meeting in Loudoun County, the supervisors voted eight to one to further study a proposed transfer of ownership of the Aldie Mill to Loudoun County. During this discussion, Mr. Seilheimer cautioned that he would want some restrictions or guarantees concerning the future entity that might operate the Mill to insure that the Mill would continue as a historic site and limit possible commercial applications. Ms. Trew gave a brief update on the status of the Chesterfield Riverfront proposal which had stalled during recent supervisor elections.

Ms. Vance presented two memos concerning end of year deadlines for easement proposals to be included at the December meeting. Mr. Seilheimer made a motion to approve both of the memos as modified. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Cooper introduced Ms. Laura Thurman as the new easement assistant and monitor in the Staunton office.

Dr. Cutler made a motion to accept the consent agenda proposals as presented including #'s; 1-3, 5-36, 41, 44, 46, 57, 59-62 and 73-75. Mr. Seilheimer seconded the motion and it was approved unanimously.

At 11:15 am, Dr. Cutler made a motion to convene a closed meeting pursuant to subsection A, paragraphs 1 and 7, of 2.2-3711 of the Code of Virginia to discuss personnel matters. Ms. Imhoff seconded the motion and it was approved unanimously.

Mr. Walker made a motion to end the closed meeting. Mr. Seilheimer seconded the motion and it was approved unanimously. Dr. Cutler made a motion to certify the closed meeting,

“WHEREAS, the Board of Trustees of the Virginia Outdoors Foundation (“the Board”) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Board in an open meeting that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby certifies, to the best of each member’s knowledge, the following:

- (1) Only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and
- (2) Only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

Mr. Seilheimer seconded the motion and Ms. Vance recorded that each Trustee voted aye to the motion.

Mr. Seilheimer made a motion to offer the job of Executive Director to candidate Mr. Bob Lee and authorized the chairman to negotiate a salary up to the level approved in the budget. Dr. Cutler seconded the motion and it was approved unanimously. Mr. Kilgore thanked the members of the Ex. Dir. Selection Committee along with the non-trustee advisors. He requested that Ms. Vance thank each advisor with a letter.

Ms. Cooper presented the Cole easement (#4) of 319.50 acres in Augusta County. Ms. Cooper indicated that some unnecessary language allowing the landowner to create wetlands on the property was mistakenly included in the proposal. Ms. Imhoff made a motion to approve the easement with the deletion of “or create” in all wetlands language and the deletion of the entire paragraph regarding the “banking” of wetlands areas. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Grayson presented the Atherton easement (#37) of 279.5 acres in Fauquier County. Ms. Grayson indicated that the proposal slightly exceeded the Guidelines (3 parcels on 279 acres) regarding allowable divisions of the property, but recommended acceptance of the easement because the landowners had agreed to forego several secondary dwellings and had added buffer language. Mr. Seilheimer made a motion to accept the easement as presented. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Beverly easement (#38) of 94 acres in Albemarle County. Ms. Buttrick indicated that the proposal included language to restrict outside lighting on the property which was modeled on a County ordinance. Ms. Imhoff made a motion to accept the easement with the deletion of the lighting restriction language. After some discussion, Ms. Imhoff withdrew the motion. Mr. Seilheimer made a motion to accept the easement as presented. Mr. Abel-Smith seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Busch easement (#39) of 122 acres in Mecklenburg County. Dr. Cutler mentioned that VOF has the VA Dept. of Forestry review forestry plans when required by in an easement and questioned the compatibility of VOF's and DOF's goals in Forest Management Plans. He suggested that VOF may need to have its own forester or acquire the expertise to review plans itself. Ms. Imhoff made a motion to accept the easement as presented. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Busch easement (#40) of 213 acres in Charlotte County. Ms. Buttrick indicated that although the proposed easement exceeded VOF Guidelines regarding allowable parcels, she recommended acceptance of the easement because the landowners had agreed to limit the permitted secondary dwellings and the size of one of the permitted parcels. Ms. Vance pointed out a typo in the dwelling paragraph which needed to be changed to allow only one main dwelling per parcel. Mr. Seilheimer made a motion to accept the easement with the above change by Ms. Vance. Mr. Walker seconded the motion and it carried with six votes. Ms. Imhoff voted against the motion saying that she thought the open-space value of the property was compromised under the current proposal.

Ms. Grayson presented the Duncan easement (#42) of 200.42 acres in Fauquier County. Ms. Grayson indicated that the proposal was not consent due to language requiring VOF review of location and design of new house and buildings on the smaller parcel in page 8 paragraph 6 (iv). She recommended acceptance of the easement with the language because of the scenic, highly visible and sensitive nature of the property. Ms. Imhoff made a motion to accept the easement as presented. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms. Cooper presented the Dunning easement (#43) of 191.31 acres in Clarke County. Ms. Cooper indicated that the proposal was not on the consent agenda due to the inclusion of two indoor riding rings. She recommended acceptance of the easement proposal because of the 400 foot road setback and additional vegetative screening requirements for the requested rings. Mr. Abel-Smith made a motion to accept the easement as presented. Mr. Seilheimer seconded the motion and it was approved unanimously.

Mr. Kilgore opened the floor to comments from the public and Mr. Dennis Baker from the Matthews County Land Trust addressed the Trustees about the land trusts work in the county and commended Ms. Thomas's work.

Ms. Imhoff made a motion to approve the fiscal year 2005 budget as presented by Ms. Vance. Dr. Cutler seconded the motion and it was approved unanimously.

Mr. Kilgore recessed for lunch at 12:00 p.m. and then continued with the non-consent agenda proposals.

Ms. Vance presented the Hileman/Smusz easement (#45) of 70.6 acres in Montgomery County. Ms. Vance indicated that the proposal exceeded VOF Guidelines regarding permitted dwellings, but recommended acceptance of the easement because of exceptional conservation values of the property and additional site restrictions on the dwellings. Mr. Seilheimer made a motion to accept the easement as presented. Dr. Cutler seconded the motion and it carried with five votes.

Ms. Imhoff and Mr. Walker voted against the motion saying they thought it was too much building for the size of the parcel.

Ms. Vance presented the Kegley Farms Inc. easement (#47) of 298 acres in Wythe County. Ms. Vance indicated that the proposal slightly exceeded VOF Guidelines regarding allowable parcels and included language permitting a windmill. Dr. Cutler made a motion to accept the easement allowing only one singular windmill. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms. Babylon presented the Keller easement (#48) of 140.5 acres in Franklin County. Ms. Babylon indicated that the proposal exceeded VOF Guidelines regarding allowable parcels but that the landowners would agree to restrict the size of one parcel and use vegetative screening to minimize the view for all dwellings. Mr. Hartz made a motion to accept the easement with siting review for all secondary dwellings which would additionally not be visible at all not just minimized. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Kluge/Moses easement (#49) of 238 acres in Albemarle County. Ms. Buttrick indicated that the proposal was non-consent due to an existing winery operation among other details. After some discussion of the proposal and the existing commercial operations, Ms. Imhoff made a motion to defer the proposal. Mr. Walker seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Kolb easement (#50) of 176 acres in Albemarle County. Mr. Seilheimer made a motion to accept the easement allowing only one 3500 sq. foot main dwelling, meaning that the existing uninhabitable dwelling would be demolished if another was built to replace it and the words “exceeds the class of examples set forth herein,” replaced “is questionable” on page 6, paragraph 8. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Ford presented the Montgomery easement (#51) of 132.9098 acres in Fauquier County. Ms. Ford indicated that although the proposed easement exceeded VOF Guidelines regarding allowable parcels, she recommended acceptance of the easement as presented because the landowners had included additional restrictions protecting the scenic byway and property, including a building envelope for new construction and underground utilities. Mr. Seilheimer made a motion to accept the easement as presented. Dr. Cutler seconded the motion and it carried with five votes. Mr. Walker and Ms. Imhoff voted against the motion.

Ms. Grayson presented the Morven Park easement (#52) of 932 acres in Loudoun County. Ms. Grayson indicated that the proposal was not ready for acceptance, but would be re-presented at the December meeting. Ms. Imhoff made a motion to defer the easement proposal to a later date. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Thomas presented the Nichols easement (#53) of 98 acres in Northumberland County. Ms. Thomas indicated that easement #53 and #70 by the same owner would be combined into one proposal. The proposal was non-consent because it included language allowing a grass airstrip. Ms. Imhoff made a motion to accept the easements together with the addition of language

restricting the width of the permitted pier. Mr. Walker seconded the motion and it was approved unanimously.

Ms. Ford presented the Patnaude easement (#54) of 179 acres in Fauquier County. She indicated that the proposal exceeded VOF Guidelines regarding secondary dwellings, but recommended acceptance of the easement because all of the secondary dwellings were already existing on the property. She mentioned that there were currently radio towers (2) existing on the property which were under lease and requested that the Trustees require that the lease be allowed to expire without renewal. Mr. Seilheimer made a motion to accept the easement with the addition of language not permitting the tower lease to be renewed upon expiration and requiring the removal of said towers if it could be done at no cost to the landowners. After some discussion, Mr. Seilheimer amended his motion to not permit enlargement of the existing secondary dwellings with the exception of one dwelling which currently had no bathroom facilities, the addition of such facilities would be permitted. Mr. Abel-Smith seconded the motion and it carried with four votes. Ms. Imhoff, Mr. Hartz and Mr. Walker voted against the motion.

Ms. Grayson presented the PEC easement (#55) of 64 acres in Fauquier County. Ms. Grayson indicated that the proposal was not consent due to language granting the PEC a right of enforcement in the event that VOF failed to enforce the easement. She explained briefly the history of the Ovoka farm project and PEC acquisition of the property. The easement also contains very restrictive terms regarding the potential renovation of an existing barn into a residence. She recommended acceptance of the easement with the language because of the scenic, highly visible and sensitive nature of the property. Ms. Imhoff made a motion to accept the easement as presented. Mr. Kilgore seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Plank Road Assoc. easement (#56) of 318 acres in Albemarle County. The proposal exceeded VOF Guidelines for parcel density but contained restrictive siting controls and fewer total dwellings than would be permitted. After some discussion of the status of various VDOT road plan publications and the necessity of including pertinent language in the easement, Mr. Seilheimer made a motion to accept the easement as presented. Mr. Walker seconded the motion and it carried with six votes. Ms. Imhoff voted against the motion due to uncertainty concerning the road plans.

Ms. Trew presented the Pohanka easement (#58) of 122 acres in Spotsylvania County. Ms. Trew indicated that the proposal was non-consent because it exceeded VOF Guidelines regarding allowable parcels. The property contains a historic house, "Marengo", and the landowners wish to keep the related parcel intact, which would prevent them from making one of the two permitted parcels of a small size as dictated by Guidelines. Mr. Seilheimer made a motion to accept the easement as presented, accepting that the historic house parcel was a logical division. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Vance presented the Wimmer easement (#64) of 269 acres in Montgomery County. Ms. Vance indicated that the proposal exceeded VOF guidelines regarding allowable parcels, but recommended acceptance of the easement because the landowners would agree to fewer secondary dwellings and siting restrictions to prevent visibility of dwellings over 1400 ft



elevation from I-81. Ms. Imhoff made a motion to accept the easement as presented. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Ford presented the Davis easement (#66) of 39 acres in Rappahannock County. Though the proposal was less than fifty acres, Ms. Ford recommended acceptance of the easement because the proposal would combine what is currently three parcels into one without division and would restrict the one permitted secondary dwelling to less than 2000 sq. ft. Mr. Seilheimer made a motion to accept the easement as presented. Mr. Abel-Smith seconded the motion and it was approved unanimously.

Ms. Vance presented the Greene easement (#67) of 40 acres in Montgomery County. Dr. Cutler made a motion to accept the easement as presented. Mr. Seilheimer seconded the motion and it was approved unanimously.

Ms. Cooper presented the Jones easement (#68) of 28 acres in Botetourt County. Mr. Walker made a motion to accept the easement as presented. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Thomas presented the Lerner easement (#69) of 27.88 acres in Mathews County. Ms. Thomas indicated that the staff was not recommending approval of the current proposal because of the sensitive nature of this shoreline property and its being less than fifty acres. She would recommend permitting only one parcel, one primary dwelling and one secondary dwelling. Mr. Seilheimer made a motion to deny approval of the current proposal. Ms. Imhoff seconded the motion and it was approved unanimously.

Ms. Thomas presented the Robinson easement (#71) of 37.22 acres in Mathews County. Though the proposal was less than fifty acres, Ms. Thomas recommended acceptance of the easement because it permitted no division, limited dwellings and included shoreline control structures and protected important tidal shoreline. She indicated that the landowners had requested co-holding with Middle Peninsula Land Trust, but that the trust was not qualified under VOF policy so the language would be removed from the easement. Mr. Seilheimer made a motion to accept the easement as presented. Mr. Walker seconded the motion and it was approved unanimously.

Ms. Thomas presented the TNC, Lammermoor Tract easement (#76) of 46.54 acres in Essex County. Dr. Cutler made a motion to accept the easement as presented. Mr. Walker seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Wouters easement (#77) of 7.6 acres in Orange County. She indicated that the property was surrounded on three sides by another large VOF easement and had originally been part of the larger property. Mr. Seilheimer made a motion to accept the easement as presented. Mr. Walker seconded the motion and it was approved unanimously.

### **Preservation Trust Fund Proposals**

Ms. Cooper presented the Rosen easement (#79) of 108 acres in Rockbridge County. She went on to present the OSLPTF grant request in the amount of \$4,000 and the staff recommendation

for full funding. Ms. Imhoff made a motion to accept the easement and approve full funding of the grant request. Mr. Walker seconded the motion and it was approved unanimously.

### **Reconsideration/Amendments**

Ms. Vance presented the Marye reconsideration (#80) of 562 acres in Montgomery County. This proposal reduces the permitted parcels from six to three and dwellings from fifteen to six and allows political signs and secondary dwellings up to 2500 sq. ft. Mr. Seilheimer made a motion to accept the easement as presented. Dr. Cutler seconded the motion and it was approved unanimously.

Ms. Grayson presented the Stettinius Estate reconsideration (#81) of 224 acres in Loudoun County. The reconsideration request was to increase the size limit on both the existing main house and on the permitted new main house on the second parcel and to allow an additional barn apartment. Ms. Grayson recommended approval of the additional barn apartment because it would not have significant impact on the appearance or conservation value of the farm and may add to farm functionality. She went on to recommend removal of any size limits on the main houses because the limits are so high as to be non-limiting and VOF does not currently require size limits on main houses. Mr. Seilheimer made a motion to accept Ms. Grayson's recommendations concerning the proposed easement. Mr. Hartz seconded the motion and it was approved unanimously.

Ms. Buttrick presented the Young amendment request (#83) of 441.797 acres in Albemarle County. After a lengthy discussion in which the Trustees expressed admiration for the intent of the landowner but questioned the possible weakening of the original forestry language, Dr. Cutler made a motion to deny the request for amendment as presented. Mr. Abel-Smith seconded the motion and it was approved unanimously.

### **Policy Discussions**

Ms. Vance provided an update on the VAULT discussions concerning the sale of tax credits and a possible cap.

The staff and Trustees discussed further thoughts on criteria for development-related easements. Staff consensus was that this type of project takes considerably more time to complete than other easements and that discussion was currently underway on several projects. Mr. Kilgore suggested that staff and trustees needed to continue to discuss the issue in order to develop a policy to direct staff and landowners. But in the meantime, he made a motion to institute a moratorium on any new projects which would be integral to a development project for this calendar year; projects of this type already in progress would continue normally. Mr. Hartz seconded the motion and it was approved unanimously.

Mr. Seilheimer and Ms. Imhoff left the meeting early at 4:30 p.m. Ms. Vance confirmed the quorum.



Final

Ms. Buttrick and Mr. Wasserman presented forestry language proposed for the template easement. Mr. Kilgore mentioned the increased concern to prevent violations of forestry terms in particular because of the difficulty in restoration and offered language that he had developed for his own easement. The draft language was deferred for further study.

The next meeting was set for December 8th and 9<sup>th</sup> at the Jefferson Library, Monticello.

Dr. Cutler made a motion to adjourn the meeting, seconded by Mr. Walker. Mr. Kilgore adjourned the meeting at 5:03 p.m.

Respectfully Submitted,

Anna Chisholm